



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Rogers, Jack

Appl. No.: 09/978,178

Filed: October 17, 2001

For: **Peptides Derived from the Human
Amyloid Precursor Protein**

Art Unit: 1647

Examiner: R. Hayes

Atty. Dkt.: 7570/73272

Request for Continued Examination

Commissioner of Patents
U.S. Patent and Trademark Office
Customer Service Window, **MS RCE**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

This is a request for Continued Examination (RCE) of the above-identified application under 37 C.F.R. §1.114.

1. Submission required under 37 C.F.R. §1.114:

a. Previously submitted:

☒ Consider the amendment(s)/reply under 37 C.F.R. §1.116 with Exhibit A attached, previously filed on December 20, 2004.

☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on [Appeal Brief filed].

☐ Other:

b. Enclosed:

☐ Amendment and Response

☐ Affidavit(s)/Declaration(s)

☐ Information Disclosure Statement (IDS)

☒ Other: Comments Accompanying Request for Continued Examination.

2. Additional Items:

- ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. §1.103(c) for a period of [No. of Months Suspension 1.103(c)] months. (*Period of suspension shall not exceed three months; fee under 37 C.F.R. §1.17(i) required.*)
- ☒ A petition for extension of time is enclosed.
- ☒ A return postcard is enclosed.
- ☐ Other: Change of Address Notice
- ☒ Applicant(s) assert entitlement to Small Entity Status.
- ☐ RCE Fee required under 37 C.F.R. § 1.17(e) without a claim of small entity status is: \$790.00.
- ☒ RCE Fee required under 37 C.F.R. § 1.17(e) by an entity claiming small entity status is: \$395.00.
- ☐ A check in the amount of \$ [Check Amount enclosed] is enclosed.
- ☒ Charge \$ \$395.00 to Deposit Account No. 06-1135 under Order No. 7570/73272.
- ☒ The Director is hereby authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135 under Order No. 7570/73272. Should no proper payment be enclosed herewith, the Director is authorized to charge the unpaid amount to Deposit Account No. 06-1135 under the same order number.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

By

Michael A. Sanzo
Reg. No. 36,912
Attorney for ApplicantDate May 23, 2005
1801 K Street N.W., Suite 401L
Washington, DC 20006-1201
Phone: (202) 419-7013



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Comments Accompanying Request for Continued Examination

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Sir:

The claims in the above-noted application received a final rejection in an Office Action mailed on October 18, 2004. On December 20, 2004, Applicant filed a response in which amending the specification of the application and claims 18, 20, 21, 23, 26, 27 and 29. In addition, new claims 30 and 31 were introduced. Applicant filed a Notice of Appeal on February 9, 2005.

On March 7, 2005, the Examiner mailed an Advisory Action. This indicates that the amendments made by Applicant in the response of December 20 would not be entered because they required further consideration and search. The Advisory Action also states:

Applicant's reply has overcome the following rejection(s): the objections to the specification are obviated, as it relates to sequence compliance and priority. The objection of claims 28-29 for being improperly multiple dependent has been withdrawn after further consideration by the Examiner. If entered later, the new matter rejection of claims 23 & 29 should be obviated.

Later, the Advisory Action states that the arguments made by Applicant in a previous response did not place the application in condition for allowance because they were directed to claim amendments that were not entered.

In the present communication, Applicant is filing a Request for Continued Examination and is resubmitting the response of December 20 so that its amendments can be entered and its arguments considered. Applicant believes that, apart from any additional searching that the enclosed amendments may require, the primary remaining rejections are: (a) to claims 23 and 29, under 35 U.S.C. § 112, first paragraph; and (b) to claims 20, 22, 26, 28 and 29 under 35 U.S.C. § 112, second paragraph.

In both cases, Applicant has attempted to overcome the rejections by incorporating claim wording suggested by the Examiner in previous Office Actions. With respect to the rejection of claims under 35 U.S.C. § 112, first paragraph, Applicant has introduced amendments to claims 23 and 29 corresponding to a suggestion by the Examiner on page 4 of an Office Action sent on October 18, 2004. With respect to the rejection of claims under 35 U.S.C. § 112, second paragraph, Applicant has introduced amendments to claims which incorporate the language suggested by the Examiner on page 3 of an Office Action sent on May 6, 2004.

Conclusion

Applicant submits that the amendments and arguments made herewith are sufficient to overcome all of the remaining rejections to claims. It is therefore respectfully requested that these rejections be withdrawn and that the claims be allowed.

If, in the opinion of the Examiner, a phone call may help to expedite the prosecution of this application, the Examiner is invited to call Applicant's undersigned attorney at (202) 419-7013.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

By: Michael A. Sanzo
Michael A. Sanzo
Reg. No. 36,912
Attorney for Applicant

Date: May 23, 2005
1801 K St., NW, Suite 401L
Washington, DC 20006
(202)419-7013

Attachment: Amendment and Response filed
December 20, 2004, with Exhibit A
attached.